

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1363 CS Affordable Housing
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Growth Management Committee</u>	<u>9 Y, 0 N, w/CS</u>	<u>Grayson</u>	<u>Grayson</u>
2) <u>Local Government Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Fiscal Council</u>	<u></u>	<u></u>	<u></u>
4) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 1363 addresses the issue of affordable housing by:

- Creating the Community Workforce Housing Innovation Program (CWHIP), a program which incents public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.
- Requiring the use of certain state, county and municipal surplus real property for affordable housing purposes.
- Authorizing special districts to provide housing assistance to their employees; and authorizing school boards to provide housing assistance to teachers and other instructional personnel.
- Increasing the total amount of community contribution tax credits which may be granted to specified programs.
- Removing the cap on the distribution of documentary stamp revenues to the State Housing Trust Fund, which cap is scheduled to be implemented in FY 2006-2007.
- Providing guidance for the assessment of just valuation of affordable housing when a cap rate is used.
- Providing a property exemption for affordable housing property owned by a nonprofit entity.
- Lowering the mortgage loan rate for Corporation loans under the State Apartment Incentive Loan Program when the project targets certain populations.
- Reducing the minimum match requirement to which a sponsor must commit in order to receive a loan under the Elderly Housing Community Loan Program.
- Providing a disabled veterans license and permit fee exemption.
- Providing rulemaking authority to the Florida Housing Finance Corporation (Corporation) necessary to implement the provisions of this bill.
- Providing appropriations.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill increases the options of individuals and certain private organizations in the conduct of their own affairs. The bill reduces the costs associated with making wheelchair accessibility improvements to a permanently and totally disabled veteran's home.

Empower families – The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need; and increases family stability, self support, and management.

Ensure lower taxes - The bill will provide increased tax incentives for persons who donate to eligible sponsors for projects that provide homeownership opportunities for low-income and very-low-income households and for donations made to eligible sponsors for all other projects that qualify under the Community Contribution Tax Credit Program. The bill provides 100 % service-connected permanently and totally disabled veterans confined to wheelchairs an exemption on any license or permit fee to make improvement on their residence.

Promote Personal Responsibility and Empower Families - This bill reduces the match required by the Elderly Housing Community Loan Program (EHCL) from 15 % to 5 % of the loan amount received. Because the maximum loan amount was significantly increased during the last legislative session, the match required of the sponsoring agencies was also significantly increased. Reduction of the required match rate may allow more sponsors to take advantage of the higher loan amounts now available, thereby increasing and improving the stock of housing available for the low-income elderly.

B. EFFECT OF PROPOSED CHANGES:

Due to escalating real estate prices, the average cost of a home in Florida has risen by close to 90% since 2001 with average wages rising only about 10%. This has exacerbated the state's existing affordable housing needs. The result is a widening of the "gap" in the ability of many working families to access affordable rental and owner housing. Another result is an additional strain on the states traditional affordable housing programs. Program funding has not kept up with rising costs and need for affordable rental and home ownership opportunities.

In addition, this critical housing shortage is now affecting moderate income individuals who are employed in essential service areas of our local economies but who do not qualify for existing affordable housing programs. Many employers are finding it increasingly difficult to employ and maintain essential services personnel, such as teachers, police, hospital workers, and others necessary for maintaining the essential public services in our communities.

According to the bill sponsor, the bill is designed to stimulate the construction of home ownership and rental housing in high cost and high growth counties to meet the needs of very low, low and moderate income families along this continuum and in particular, essential services personnel who are facing tremendous difficulties living in the communities in which they work.

HB 1363 does the following:

- Creates the Community Workforce Housing Innovation Program (CWHIP) to provide for multifamily rental and single family housing for essential services personnel such as teachers, nurses, etc who have incomes up to 150% of AMI in high cost and high growth counties in Florida.
- The Innovation Program will provide grants and incentives to affordable rental and home ownership projects that target:

- a) High Cost Counties where area median purchase price is higher than 50% of the state wide area median purchase price calculated on an annual basis and Counties designated as areas of state critical concern.
 - b) High Growth Counties where school populations are outpacing school districts ability to hire and retain teachers.
 - c) Public-private partnerships that demonstrate a strong public or private sector contribution of land, dollars, or in kind value of at least 15% of the value of the project.
 - d) Essential services personnel, such as teachers, educators, fire, police, hospital workers, construction trades and others as defined and documented by the local community in their annual SHIP plan with incomes up to 150% area median income.
 - e) Innovative design, public and private sector support, and ability to maintain long term affordability for rental and ownership units.
- The bill authorizes the Florida Housing Finance Corporation to implement CWHIP in cooperation with the local SHIP programs. The Corporation may approve and fund one CWHIP projects per county. Each project shall be eligible for a series of workforce housing incentives:
 - a) Expedited permitting and approvals of development orders.
 - b) Impact fee reductions or alternative fee payment methods.
 - c) Increased density levels of 16 units per acre or higher.
 - d) Reduction of open space and setback requirements.
 - e) Modification of street requirements and concurrency requirements.
 - f) Allows the FHFC to review and develop strategies for the expanding affordable home ownership across the state

The bill also provides support for the following:

- Extremely Low Income - Provides a new definition of Extremely Low Income, residents with incomes below 30% of area median income and a series of changes to existing state and local housing programs to incentivize the development of very low income housing. Provides \$32 million for this program.
- Down Payment Assistance - Includes down payment assistance for essential services personnel such as teachers, nurses, construction trades workers and others defined by local housing officials.
- Community Contribution Tax Credit for Low Income Home Ownership- Used by Habitat for Humanity and others.
- Surplus Lands - Requires local governments, special districts and the state to inventory and make available surplus lands for affordable housing.
- School Land Authorization - Permits changes to statutory designation for use of land for affordable and workforce housing. The bill authorizes school boards and independent special districts to donate or use it's own land for workforce and affordable housing.
- Property Assessment – “The Manny Diaz Property Tax Relief Initiative” directs property appraisers to appraise affordable housing properties based upon rental income.
- Elderly Housing – Makes development of elderly housing more affordable.
- Disabled Veterans – Provides relief from paying certain license and permit fees on housing.
- Scraps the Cap - Eliminates the cap of \$243 million on documentary stamps allocated into the Housing Trust funds which was to take effect in 2007 and allows the State Housing Trust Fund to benefit from the statutory documentary stamp revenues provided in existing law.

Community Workforce Housing Innovation Program

The bill creates the Community Workforce House Innovation Program (CWHIP) a program which incents public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.

Florida Housing Finance Corporation (Corporation): The bill establishes the Corporation as the entity responsible for the implementation of this program. Corporation is directed to implement this program by providing financial and regulatory incentives to both the public and private sectors for the purpose of developing and financing innovative rental and home-ownership housing solutions for eligible persons. The bill also directs the Corporation to develop selection criteria for selecting housing innovation projects in certain areas; and to provide incentives for the use of State Housing Initiative Partnership Program (SHIP) funds.

Definitions: The bill directly or indirectly defines several terms as follows:

- “Counties in high-cost areas of the state” is directly defined as “those counties in which the average median purchase price of a single-family home is above the state median purchase price of a single-family home.
- “Areas of critical state concern” is indirectly defined as those areas designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.¹ One of the five designated ACSC areas appears to comply with this indirect definition: Florida Keys ACSC (s. 380.0552, F.S.).
- “Project partnerships” is indirectly defined to include substantial involvement of public sector entities (examples given are: local municipalities, counties, school districts, special districts, and other units of local government) and private sectors entities, “that donate land or other tangible value worth at least 15 percent of the project value.”
- “Essential services personnel” is indirectly defined to include teachers and educators, police and fire personnel, health care personnel, and other job categories in which the personnel are defined as essential services personnel within the annual local SHIP program.
- “Innovative projects” is indirectly defined to include “new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements.”

Targets: The bill mandates that the Corporation target the following:

- Counties in high cost areas of the state.
- Project partnerships, as defined in the bill.
- Persons in households with income levels up to 150 percent of the adjusted median income (AMI) in prioritized areas, or a higher AMI in areas of critical state concern.
- Essential services personnel in need of affordable housing; Innovative projects, as defined in the bill.

Supplemental Program: The bill provides that the CWHIP shall supplement and not supplant existing affordable housing programs funded under ch. 420, F.S., relating to housing.

Annual Review and Report: The bill requires the Corporation to conduct an annual review of the success of the CWHIP. Additionally, the bill requires the Corporation to annually review ways to improve public and private sector incentives and barriers to affordable and community workforce housing. The Corporation is required to submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate by

¹ Established in Chapter 380.05, Florida Statutes, the Area of Critical State Concern (ACSC) program protects resources and public facilities of major statewide significance. Designated Areas of Critical State Concern are: City of Apalachicola; City of Key West; Green Swamp; Florida Keys (Monroe County); and the Big Cypress Swamp (Miami-Dade, Monroe and Collier counties). In ACSCs, Department of Community Affairs (DCA) staff review all local development projects and may appeal to the Administration Commission any local development orders that are inconsistent with state guidelines. The DCA is also responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated areas.

January 1 each year. The bill authorizes the Corporation to request assistance in these matters from the DCA or the Affordable Housing Study Commission². The review will include:

- Determination of how the program supports traditional affordable housing programs defined in ch. 420, F.S.
- Determination of whether the program is meeting housing needs of high-cost counties.

Approved Applicant Benefits: Approved applicants are eligible for the following to ensure the financial viability, successful development, and ongoing maintenance of the housing developments:

- Expedited approval of development orders and development permits.
- Reduction of impact fees by 50%, waiver of impact fees, or alternative method of fee payment.
- Increased density up to 16 units per acre or higher, except in coastal high hazard areas.
- Reserved infrastructure capacity in the local comprehensive plan.
- Allowance of additional housing units in residential zoning districts.
- Reduction of open space and set back requirements.
- Allowance of zero-lot-line configurations.
- Reduction of traffic concurrency requirements by up to 25%.
- Priority eligibility for local transportation infrastructure funding by metropolitan planning organizations.

Local government acceptance of these incentives is conditioned upon:

- The applicant's receipt of a letter of support from the local government; or
- Failure of a local government vote to object to the applicant's plan within 60 days after local government's receipt of applicant's plan.

If the local government votes not to accept the project in the county, then the Corporation shall remove the application from its approved funding list.

Grant Eligibility: The bill provides that the Corporation, subject to appropriations, has the authority to provide grants for construction or rehabilitation of rental or single-family community workforce housing, providing that the applicant meet at least one of the following criteria:

- Sets aside at least 80% of the units for eligible persons with a household income not exceeding 150% of AMI.
- Sets aside up to 60% of the units prioritized for essential public service personnel; which projects identify sales and leasing strategies to accomplish this set aside and to sell or lease units to other qualified individuals if essential service personnel are immediately available or qualified.
- Limits rentals to no more than 30% of the maximum household income adjusted to unit size.
- Limits the sales price of a house to the price for which an eligible applicant at 150% of AMI may qualify.

Requests for Proposal (RFP): The bill requires the Corporation to issue a RFP to solicit applications and to develop a funding distribution process. Grants are to be based upon financial need. The priority of grants shall be for high-cost counties with the highest real estate cost burdens for housing, including ACSCs, and counties with the highest average median price of a single-family home. The Corporation is authorized to approve a project that does not require funding.

Application Criteria: Eligible applications shall:

² The Affordable Housing Study Commission was created in 1986 pursuant to the provisions of s. 420.609, F.S. Each year the Commission makes public policy recommendations to the Governor and Legislature to stimulate community development and revitalization to promote the production, preservation, and maintenance of safe, decent affordable housing for all Floridians.

- Demonstrate a public-private partnership of at least one local government or special district and one private partner.
- Demonstrate how the regulatory incentives will be used, and include any letters of support from local government partner regarding the regulatory incentives.
- Demonstrate that the applicant possesses title to, or “firm control” of, land; and availability of required infrastructure.
- Provides supporting research or facts of rental or home ownership workforce housing demand and need.
- Have at least 15%, evidenced by a letter of commitment, of the total development cost provided by grants, donations of land, or contributions from other sources.
- Demonstrate accessibility to employment opportunities or a plan to provide transportation access to such opportunities.
- Demonstrate a marketing and sales plan to ensure residents fit the income requirements and program workforce demands.
- Provide a viable pro forma financial statement for the development.

Review Committee: The bill requires the Corporation to establish a staff review committee and scoring system.

Evaluation and Ranking Criteria: The bill requires the Corporation to develop evaluation and ranking criteria that utilize the application criteria listed above and emphasize the following:

- Innovative planning concepts.
- Innovative building design.
- Local government participation.
- Public-private partnerships.
- Ability to proceed with construction.
- The feasibility and economic viability of the project
- The applicant's affordable housing development and management experience.
- The ability to meet essential service personnel needs.
- A management plan to attract, serve, and keep eligible workforce tenants and ensure the long-term affordability of the rental or ownership units.
- The quality of project design.³

Grant Award and Accountability: The bill requires the Corporation to develop rules and procedures for awarding of, and accounting for, grants.⁴

Default: If a grantee defaults on the grant, the Corporation may foreclose or take necessary legal action to protect its interests and to recover the amount of the grant principal, accrued interest and fees. Additionally, the Corporation may acquire real or personal property or interest therein, when necessary to protect grant; or to sell, transfer, and convey such property to a buyer without regard to ch. 253 or ch. 270, F.S. (both relating to state lands).⁵

³ See bill s. 1(5).

⁴ See bill s. 1(6).

⁵ See bill s. 1(7).

Down Payment Assistance Program: The bill requires the Corporation to develop and implement a down payment assistance program to meet the needs of eligible individuals to purchase workforce housing. Additionally, Corporation is to encourage local governments to meet the same needs through their State Housing Initiatives Partnership plans (s. 420.9075, F.S.).

Conversion of Existing Multifamily Rental to Ownership: The bill requires the Corporation to develop rules and guidelines for the conversion of existing affordable multifamily rental apartments to affordable home ownership units within the target areas. Project eligibility requires are:

- Being in operation and compliance with the Corporation's rules for at least 5 years.
- Demonstrating the guarantee of a term of affordability for home ownership in the deed restrictions or financing restrictions equal to the term of affordability provided under the rental agreement.
- Demonstrating an affordable home ownership purchase price, approved by the Corporation, based on the average median purchase price of a home in the county for persons whose incomes do not exceed 150% of the county area median income (AMI).
- Provide current apartment renters the first opportunity to purchase converted units.

The Corporation may approve only 15% of available affordable rental projects as eligible for conversion in any high-cost county in any single year. Priority in the Corporation's annual funding cycle must be given to replacing rental unit stock converted to ownership.

Local Public Input: The Corporation shall require, and develop criteria for obtaining and documenting, public input.

Surplus Public Property for Affordable Housing

County Property: The bill requires each county to prepare an inventory list of all real property held in fee simple by the county within its jurisdiction. The list is to be prepared by January 1, 2007, and each 3 years thereafter. Criteria for the list are provided. The bill requires county planning staff to review the list and to identify each property that is appropriate for use as affordable housing. A 6-month period is provided for this review. Properties identified as appropriate for affordable housing may be offered for sale with the proceeds used to purchase land for the development of affordable housing. Alternatively, the proceeds may be:

- Donated to the Local Government Housing Trust Fund;
- Sold with a restriction requiring development on the property to include a specified percentage of permanent affordable housing; or
- Donated to a nonprofit housing organization for the construction of permanent affordable housing.

The bill prescribes a public hearing process and provides restrictions on the potential pool of purchasers. Further, the bill provides for certain deed restrictions to prevent the sale of the unit at a price that exceeds the affordable housing threshold for low or moderate-income persons. The bill provides for definitions consistent with those found at s. 420.0004, F.S.

Municipal Property: The bill provides similar requirements for municipalities to prepare the real property inventory; and to offer for sale properties appropriate for sue as affordable housing.

State Property: The bill amends existing law related to the surplus state lands. The bill provides that a local government may request that state lands be specifically declared surplus lands for the purpose of providing affordable housing. Additionally, the bill authorizes affordable housing as a permitted use for surplus state lands; and provides that when such lands are conveyed to local governments, they shall be disposed of consistent with the provisions outlined above.

Authority to Provide Employee Housing Assistance

Independent Special Districts: The bill provides authority for independent special districts, created for the purpose of providing urban infrastructure of services, to provide housing and housing assistance for its employees.

School Boards: The bill authorizes school boards to provide affordable housing for teachers and other instructional personnel.

Assessment of Affordable Housing Property

Just Valuation of Affordable Housing: The bill creates “The Manny Diaz Affordable Housing Property Tax Relief Initiative” for the purpose of assessing just valuation of certain affordable housing properties based upon the actual rental income derived from those properties.

Affordable Housing Property Exemption

Nonprofit Entity Ownership: The bill provides a property exemption for affordable housing property ownership entirely by a nonprofit entity. The phrase “ownership by a nonprofit entity” is defined in the bill.

Community Contribution Tax Credits

The bill increases the total amount of community contribution tax credits which may be granted all programs approved under ss. 212.08, 220.183 and 624.5105, F.S., by \$1 million. It amends ss. 212.08, 220.183 and 624.5105, F.S., respectively, in a substantially identical fashion, to provide new allocations of the available \$13 million in tax credits: (1) an annual allocation of \$10 million of tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19)⁶ and (28),⁷ F.S., and (2) a \$3 million annual allocation for all other projects.

The bill also eliminates the requirement that the Office of Tourism, Trade, and Economic Development reserve specific percentages of certain annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households and for other projects. These sections of the bill also eliminate provisions that allow tax credits that are unused for home ownership or all other projects to be used for any approved project after the first six months of the state fiscal year.

⁶ Section 420.9071(19), F.S., defines “low-income person” or “low-income household” to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 80 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever amount is greatest. With respect to rental units, the low-income household’s annual income at the time of initial occupancy may not exceed 80 percent of the area’s median income adjusted for family size. While occupying the rental unit, a low-income household’s annual income may increase to an amount not to exceed 140 percent of 80 percent of the area’s median income adjusted for family size.

⁷Section 420.9071(28), F.S., defines “Very-low-income person” or “very-low-income household” to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest. With respect to rental units, the very-low-income household’s annual income at the time of initial occupancy may not exceed 50 percent of the area’s median income adjusted for family size. While occupying the rental unit, a very-low-income household’s annual income may increase to an amount not to exceed 140 percent of 50 percent of the area’s median income adjusted for family size.

Elderly Housing Community Loan Program

The State Apartment Incentive Loan Program (SAIL) is administered by the Corporation. The Elderly Housing Community Loan Program (EHCL) is a loan program within State Apartment Incentives Loan Program (SAIL) in which a portion of SAIL funds are reserved to loan to sponsors of housing for the elderly to provide for specific repairs and improvements.

The bill reduces the minimum match requirement to which a sponsor must commit in order to receive a loan under the EHCL Program from 15 percent to 5 percent of the loan amount. In the 2005 legislative session, the Legislature raised the maximum loan amount available under the EHCL Program from \$200,000 to \$750,000, which increased the potential match amount from \$30,000 to \$112,500. Reducing the minimum match rate to 5 percent would result in a maximum required match amount of \$37,500.

State Housing Trust Fund

The bill removes the cap on the distribution of documentary stamp tax revenues to the State Housing Trust Fund, which cap is set to take effect on July 1, 2006.

State Apartment Incentive Loans

The State Apartment Incentive Loan Program (SAIL), created in 1992, provides mortgage loans or loan guarantees to sponsors providing affordable housing to very-low income individuals.⁸ SAIL is funded by the State Housing Trust Fund⁹ and administered by the Corporation.¹⁰

The Corporation has the authority to underwrite and make state apartment incentive loans or loan guarantees to sponsors that:

- Use tax-exempt financing for the first mortgage and at least 20% of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937;
- Use taxable financing for the first mortgage and at least 20% of the units in the project are set aside for persons or families who have incomes below 50% of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size;
- Use the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986; or
- The project is located in a county that includes, or has included within the previous 5 years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100% of the units in the project are set aside for person or families who have income below 120% of the state or local median income, whichever is higher.

Section (3) of s. 420.5087, F.S., requires that a percentage of SAIL funds be reserved for each of the following groups: commercial fishing workers and farmworkers; families; persons who are homeless; and elderly persons. The percentage of SAIL funds reserved for each group is determined by using the most recent statewide very-low income rental housing market study available at the time of publication of each notice of fund availability, but the reservation of funds to commercial fishing workers and farmworkers, families, and the elderly may not be less than 10% of the funds available at that time. Currently 24% of the total SAIL funds are reserved for the elderly.¹¹

⁸ s. 420.5087, F.S.

⁹ The State Housing Trust Fund is funded by documentary stamp tax revenues. The documentary stamp tax is applicable to all recordable instruments requiring documentary stamps according to law, unless exempt pursuant to state or federal law. Revenue from documentary stamps is divided between the General Revenue Fund and various trust funds.

¹⁰ s. 420 part V, F.S.

¹¹ Florida Housing Finance Corporation.

Section (3)(d) of 420.5087, F.S., requires that 10% of the amount reserved for the elderly be reserved to provide loans to sponsors of housing for the elderly to provide for building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or life safety or security-related repairs or improvements to such housing. This part of the program is referred to as the EHCL.¹² Under the EHCL Program, sponsors are required to match the loan amount received at a rate of 15%. Funds received from matching are used to supplement the loan amount received to pay the cost of repair or improvement for which these funds are available

According to the Corporation, the match requirement is used to leverage state funds and make more fiscally prudent investments. Prior to the increase in the available loan amount, sponsors were awarded additional points during the loan application process for exceeding the minimum match requirement by a certain percentage. With the current increased loan amount and match rate, this process is no longer being used. However, under general operating policy, sponsors are still encouraged to match at the highest percentage possible, which can exceed the minimum percentage amount set in statute.

Prior to 2005, loans under the EHCL Program were capped at \$200,000 with the requirement of a minimum match of 15% from the sponsor. Last Legislative Session, the Legislature increased the maximum loan amount from \$200,000 to \$750,000.¹³ The increase in the maximum loan amount had the practical effect of increasing the potential match requirement from \$30,000 to \$112,500. Reducing the matching requirement to 5%, as provided in this bill, would result in a maximum required match amount of \$37,500.

Other Measures to Assist in the Provision of Affordable Housing

Small Scale Amendments to Local Comprehensive Plan: Existing law provides that certain small scale development activities requiring a comprehensive plan amendment may be approved through a summary process known as a small scale amendment. The bill revises one of the categories of activities for development of affordable housing on property of less than 10 acres; including workforce housing that meets the definition of affordable housing under s. 420.0004(3), F.S., without requiring the development to be financed with tax exempt bonds. Many of the workforce housing initiatives could be affordable housing developments that do not utilize tax exempt bond financing and this revision would also allow affordable housing developed with 9% Housing Credits to comply with this small scale comprehensive plan amendment provision.

Disabled Veterans License and Permit Fee Exemption: Section 295.16, F.S., allows veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, when certain criteria are met. The bill increases the type of residences eligible for the permit fee exemption in s. 295.16, F.S to include any dwelling they own.

The provisions of this bill will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible.

This bill does not place any restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restrictions on the number of times improvements may be made to the dwelling.

Developments of Regional Impact: A development of regional impact (DRI) is defined in existing law to mean "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." As DRIs

¹² See, Florida Housing Finance Corporation Rule 67-32, F.A.C.

¹³ Ch. 2005-102, L.O.F., (SB 724).

often are developed over a series of years, the law provides a certain threshold below which the project may be modified without triggering additional DRI review. Activities which exceed the threshold are considered to be a substantial deviation of the development order authorizing the development. The bill provides a bonus in the substantial deviation threshold for the provision when at least 20% of the increase in the number of dwelling units is dedicated to the construction of affordable housing units. "Workforce housing" is defined to mean housing that is affordable to a person who earns less than 120% of the area median income.

Statewide Guidelines and Standards: Existing law contains a set of statewide guidelines and standards that guide the analysis of particular activities to determine whether they constitute a substantial deviation. The bill amends those guidelines and standards to provide a similar bonus for the provision of workforce housing.

Rulemaking

The bill provides rulemaking authority to the Corporation to implement the provisions of this bill

Appropriations

The bill contains two appropriations for FY 2006-2007 to the Corporation as follows:

- \$20 million from the State Housing Trust Fund to provide funds to teachers eligible for affordable housing pursuant to s. 420.5088, F.S.
- \$32 million from the Local Government Housing Trust Fund to assist in production of housing units for extremely low income persons.

Background

The state has committed significant resources over the last decade to addressing the severe housing problems facing very low and low income residents of this state. The Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60% or less in the rental programs, and those making 80% or less of AMI in the home ownership programs.

Multifamily rental projects are funded by the Corporation through the SAIL gap loan program, the Multifamily Mortgage Revenue Bond (MMRB) program, which provides funding by issuing revenue bonds, and through allocation of federal Low Income Housing Tax Credits (LIHTC), which provides an equity infusion to multifamily affordable housing projects. The multifamily rental programs typically target those making 60% or less of the AMI. Home ownership programs consist of down payment assistance, funded by doc stamp funds and federal funds, along with mortgage loans funded by federal funds and the Single Family Mortgage Revenue Bond (SFMRB) program. Also, Florida Housing allocates documentary stamp funds to local governments through the SHIP. The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120% AMI.

Federal housing programs, especially those administered by HUD, typically serve those with the lowest incomes. In recent years, budgets for many of these programs have been cut, putting increasing pressure on state and local governments to provide for persons at the lowest income levels. In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs.

Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families can no longer afford safe, decent and affordable rental and single family housing,

In addition to the needs of the very low and low income families noted above, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The need for "workforce housing" to meet existing and future housing needs for working families whose incomes, from 80% to 150% AMI typically make them ineligible for existing housing programs, has recently become increasingly evident.

Community Contribution Tax Credits: In 1980, the Florida Legislature established the Community Contribution Tax Credit Program to encourage private sector participation in revitalization and housing projects.¹⁴ The program offers a tax incentive (a corporate income tax credit, insurance premium tax credit or a sales tax refund) equal to 50 percent of the amount donated up to \$200,000 annually to sponsors who have been approved to participate in the program. Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.¹⁵ Eligible projects include the construction, improvement or rehabilitation of housing, commercial, industrial or public facilities, and projects that promote entrepreneurial or job development opportunities for low-income persons.

The Office of Tourism, Trade and Economic Development (OTTED) is responsible for administering the program by reviewing sponsor project proposals and tax credit applications. To date, 167 sponsors/projects have been approved to participate in the program. After the taxpayer receives approval for community contribution tax credits, it must claim the credit from the Department of Revenue (DOR). Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years. Unused credits against sales taxes may be carried forward for three years.

The Florida Legislature has amended the dollar cap and the expiration date of the program on numerous occasions. The program began with a \$3 million dollar per year cap that currently is designated at \$12 million. The expiration of the program has been extended from 2005 to June 30, 2015.

According to the OTTED, Habitat for Humanity is the primary recipient of donations for housing projects under the Community Contribution Tax Credit Program.

C. SECTION DIRECTORY:

Section 1 – Creates s. 125.379, F.S., relating to the disposition of county property for affordable housing.

Section 2 – Amends s. 163.31771, F.S., conforming a citation.

Section 3 – Amends s. 163.3187(1) (c), F.S., removing an exception from the comprehensive plan small scale amendment provisions.

Section 4 – Creates s. 166.0451, F.S., relating to the disposition of municipal property for affordable housing.

Section 5 – Creates s. 189.4155 (6), F.S., authorizes independent special districts to provide housing and housing assistance for its employed personnel.

¹⁴ See, ss. 212.08(5)(q), 220.183 and 624.5105, F.S.

¹⁵ OTTED maintains a list of approved sponsors.

Section 6 – Creates s. 191.006 (19), F.S., amending special district general powers to allow provision of housing and housing assistance for employed personnel.

Section 7 – Creates s. 193.017 (5), F.S., relating to cap rates used to assess property value.

Section 8 – Amends s. 196.1978, F.S., providing an affordable housing property exemption for certain affordable housing nonprofit entity owners.

Section 9 – Creates s. 196.1980, F.S., creating “The Manny Diaz Affordable Housing Property Tax Relief Initiative”; requiring the use of an actual rental income basis for the purpose of assessing certain affordable housing properties.

Section 10 – Amends ss. 201.15 (9) and 201.15 (10), F.S., removing the caps related to distribution of certain tax revenues for the State Housing Trust Fund.

Section 11 – Amends s. 212.08(5)(q), F.S., to increasing amount of available tax credits, provide separate annual limitations for sales tax credits, eliminate the reservation of available tax credits, and renumber sub-paragraphs.

Section 12 – Amends ss. 220.183(1) (c) and 220.183 (2) (b), F.S., to increasing amount of available tax credits, provide separate annual limitations for corporate tax credits, and eliminate the reservation of available tax credits.

Section 13 – Amends s. 253.034 (6) (f), F.S., relating to the uses of state-owned lands as surplus lands for affordable housing.

Section 14 – Amends s. 295.16, F.S., relating to license or permit fee exemptions for disabled veterans; changes language from “mobile home” to “dwelling.”

Section 15 – Amends s. 380.06 (19) (b), F.S., relating to dwelling units used for “workforce housing.”

Section 16 – Amends s. 380.0651 (3) (k), F.S., relating to workforce housing; increasing the applicable guidelines for residential development.

Section 17 – Amends s. 420.0004 (8) – (14), F.S., authorizing Florida Housing Finance Corporation to adjust low income guidelines; provides definitions.

Section 18 – Repeals s. 420.37, F.S., relating to additional powers of the Florida Housing Finance Corporation.

Section 19 – Amends s. 420.503 (18), F.S., provides definitions.

Section 20 – Amends s. 420.5061, F.S., conforming a citation.

Section 21 – Amends s. 420.507 (22) (23) (40), F.S., relating to interest rates, the availability of subordinated loans to nonprofit sponsors or the availability for financing of housing to eligible borrowers, changes language from “corporations” to “business entities”; and creates s. 420.507 (44) – (46), F.S., relating to the adoption of rules for program goals, establishment of rule requirements for the reporting of data, and administration of funds appropriated for disaster recovery and reconstruction.

Section 22 – Amends ss. 420.5087 (1) (3) (5) (6), F.S., relating to population statistics; relating to liens; authorizing a corporation to waive certain requirements for projects which reserve units for very low income families; relating to state apartment incentive loans.

Section 23 – Amends s. 420.5088 (1) – (4), F.S., relating to Florida Homeownership Assistance Program.

Section 24 – Creates s. 420.5095, F.S., creating the Community Workforce Housing Innovation Program.

Section 25 – Amends s. 420.9072(2), F.S., correcting a cross-reference.

Section 26 – Amends ss. 420.9075 (4)(a), and (5) – (12), F.S., relating to the distribution of State Housing Initiatives Partnership funds in local housing assistance plans; and creating content requirements for the local housing assistance plans.

Section 27 – Amends s. 420.9076 (6), F.S., changing the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.

Section 28 – Amends 420.9079 (2), F.S., relating to the Local Government Housing Trust Fund, revising the amount of money a corporation may request in order to implement the provisions of s. 420.9075 (8), F.S.

Section 29 – Amends s. 624.5105 (1) (c) and (2) (e), F.S., to increasing availability of community contribution tax credits, provide separate annual limitations for insurance premium tax credits, and eliminate the reservation of available tax credits.

Section 30 – Amends s. 1001.42 (9) (b), F.S., authorizing school boards to provide affordable housing for teachers and other instructional personnel.

Section 31 – Authorizing the Florida Housing Finance Corporation to adopt rules to implement the provisions of the bill.

Section 32 – Appropriating \$20 million from the State Housing Trust Fund to the Florida Housing Finance Corporation; provides funds to teachers eligible for affordable housing.

Section 33 – Appropriating \$32 million from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation for the production of housing units for very low income persons.

Section 34 – Providing an effective date of July 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from \$12 million to \$13 million will result in a loss of \$.9 million in state revenues during FY 2006-2007 and FY 2007-2006.

	FY 2006-07	FY 2007-2008
General Revenue		
Corporate	(.1)	(.1)
Sales	(.8)	(.8)
State Trust	(Indeterminate)	(Indeterminate)
Total State Impact	(.9)	(.9)

2. Expenditures:

Appropriations:

	FY 2006-2007
State Housing Trust Fund	(\$20 million)
Local Government Housing Trust Fund	(\$32 million)
Florida Housing Finance Corporation	\$52 million

Community Contribution Tax Credits: It is anticipated that administration of the increase in tax credits by OTTED will be implemented within existing appropriations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from \$12 million to \$13 million will result in a loss of \$.1 million in local revenues during FY 2006-2007 and FY 2007-2006.

Disabled Veterans License and Permit Fee Exemption: The fiscal impact on local government revenues is expected to be negative and insignificant. The Revenue Estimating Conference has not met on this issue.

2. Expenditures:

Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advanced by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Community Contribution Tax Credits: The bill increases the amount of tax credits available to persons for homeownership projects from \$9.4 million to \$10 million, and for non-housing projects from \$2.6 million to \$3 million. This may have a positive but indeterminate impact on the number of low-income homes that are built each year and the projects sponsored in enterprise zones and Front Porch Florida Communities as they are likely to receive more contributions.

Elderly Housing Community Loan Program: This bill may have an economic impact on a private sector apartment owner that qualifies under the EHCL Program by reducing the match amount required to qualify for a loan under the program, allowing them to take advantage of higher loan amounts.

The bill may have a beneficial impact on the private sector in the following manner:

- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

Community Contribution Tax Credits: The table below shows the tax credits granted for housing projects and for other community development projects during the past 10 years. There were significant tax credits unused for the first two years after the cap was increased to \$10 million. Subsequently, the entire allocation has been used.

COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM TAX CREDIT SUMMARY FY 1995/96 – FY 2005/06

FISCAL YEAR	APPROVED apps.	HOUSING TAX CREDITS	COMMUNITY DEVELOPMENT TAX CREDITS	TOTAL CREDITS APPROVED	CREDITS REMAINING	ANNUAL ALLOCATION
1995/96	75	\$465,542	\$1,472,255	\$1,937,797	\$62,203	\$2,000,000
1996/97	69	\$1,043,256	\$1,018,947	\$2,062,203	\$-62,203	\$2,000,000
1997/98	81	\$1,348,500	\$651,500	\$2,000,000	\$0	\$2,000,000
1998/99	75	\$2,720,441	\$2,279,559	\$5,000,000	\$0	\$5,000,000
1999/00	198	\$3,764,283	\$1,302,178	\$5,066,461	\$4,933,539	\$10,000,000
2000/01	223	\$5,320,890	\$744,365	\$6,065,255	\$3,934,745	\$10,000,000
2001/02	322	\$9,484,489	\$515,464	\$9,999,953	\$47	\$10,000,000
2002/03	359	\$8,914,456	\$1,085,544	\$10,000,000	\$0	\$10,000,000
2003/04	285	\$8,622,769	\$1,377,231	\$10,000,000	\$0	\$10,000,000
2004/05	251	\$8,051,618	\$1,948,382	\$10,000,000	\$0	\$10,000,000
2005/06	285	\$9,558,883	\$2,441,117	\$12,000,000	\$0	\$12,000,000
10 YEAR TOTALS	2,223	\$59,295,127	\$14,836,542	\$74,131,669	\$8,868,331	\$83,000,000

Source: Created from data provided by OTTED.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Community Contribution Tax Credits: This bill may reduce the authority of municipalities and counties to raise revenues: the estimated reduction in Local Option Sales tax is \$.1 million in FY 2006–2007 and \$. million in FY 2007–2008. However, this impact is considered to be insignificant, and the bill is therefore exempt from the provisions of s. 18(b) of Art. VII of the State Constitution.

Disabled Veterans License and Permit Fee Exemption: The mandates provision appears to apply because this bill reduces revenue raising authority; however, an exemption applies. The number of applicable veterans likely to utilize the license and permit fee exemptions is expected to be minimal. Therefore, the fiscal impact is expected to be insignificant and the bill is exempt from the mandates provision.

2. Other:

Not applicable.

B. RULE-MAKING AUTHORITY:

The bill contains rulemaking for the Florida Housing Finance Corporation necessary to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 24(3) of the bill - Requires the Corporation to develop certain selection criteria either by rule or by requests for proposals. The bill does not make clear how such criteria would be developed through an RFP process; and may benefit from some further clarification. Perhaps the language should read: "The corporation shall develop selection criteria by rule for requests for proposal to..."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Growth Management Committee adopted a strike all amendment with two amendments. The strike all amendment substantially amended the originally filed bill to include the following:

- Authorizes the disposition of county property for affordable housing.
- Provides a density bonus in both the development of regional impact substantial deviation and statewide guidelines and standards provisions.
- Authorizes the disposition of municipal property for affordable housing.
- Authorizes independent special districts to provide housing and housing assistance for its employed personnel.
- Includes authority to provide housing and housing assistance for employed personnel to the general powers of independent special districts.
- Requires the use of a particular cap rates when a cap rate is used to assess the just valuation of affordable housing property.
- Defines classifications for the ownership of nonprofit entities.
- Creates "The Manny Diaz Affordable Housing Property Tax Relief Initiative."
- Removes the cap on the distribution of certain revenues into the State Housing Trust Fund.
- Increases the availability of community contribution tax credits; provides separate annual limitations for insurance premium tax credits, and eliminates the reservation of available tax credits.
- Authorizes the use of state-owned surplus lands for affordable housing.
- Creates a disabled veterans exemption from certain license and permits fees
- Creates an incentive to provide workforce housing within developments of regional impact.

- Increases the applicable statewide development of regional impact guidelines for residential development that include workforce housing.
- Section 16 – Amends s. 420.0004 (8) – (14), F.S., authorizing Florida Housing Finance Corporation to adjust low income guidelines; provides definitions.
- Repeals s. 420.37, F.S.
- Expands the definition of “farmworker” in s. 420.503 (18), F.S., to comply with an applicable Federal definition.
- Amends the powers of the Florida Housing Finance Corporation.
- Increases the applicable population criteria for funding eligibility; lowers the sponsor match related to funding for certain repairs or improvements; and allows for coterminous loan terms under certain circumstances; all related to the State Apartment Incentive Loan Program.
- Amends provisions relating to the Florida Homeownership Assistance Program.
- Section 22 – Creates the Community Workforce Housing Innovation Program.
- Amends provisions of the State Housing Initiatives Partnership Program including creating rulemaking authority.
- Changes the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.
- Amends provisions relating to the community contribution tax credit.
- Authorizes school boards to provide affordable housing for teachers and other instructional personnel.
- Creates and appropriation of \$20 million from the State Housing Trust Fund to the Florida Housing Finance Corporation to provide funding to teachers eligible for affordable housing.
- Authorizes the Florida Housing Finance Corporation to adopt rules to implement the provisions of the bill.

The Growth Management Committee took up and acted upon the following amendments:

- Amendment 1 – Withdrawn.
- Amendment 2 – Created s. 196.1980, F.S., “The Manny Diaz Affordable Housing Property Relief Initiative.”
- Amendment 3 – Created paragraph (i) of subsection (11) of s. 420.5095, F.S., the Community Workforce Housing Innovation Program.